IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 454 of 2007 (M/B)

1. Mahipal S/o Tara Chand.
2. Rakesh S/o Tara Chand.
3. Meghpal S/o Tara Chand.
4. Manga S/o Vishambhar.
5. Madan S/o Fagga @ Mangu.
   All R/o Village Telpura,
   P.S. Buggawala, District Haidwar. ....Petitioners

Versus

1. State of Uttarakhand.
   through Senior Superintendent of Police,
   Haridwar, District Haridwar.
2. Station Officer,
   Police Station Buggawala,
   District Haridwar.
3. Vinod S/o Chaman Lal.
   R/o Village Telpura, P.S. Buggawala,
   District Haridwar. …..Respondents

Mr. Parikshit Saini, Advocate for the petitioners.
Mr. G.S. Sandhu, Government Advocate for respondents Nos. 1 & 2.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S.Rawat, J.

RAJEEV GUPTA, C. J. (Oral)

Mr. Parikshit Saini, Advocate for the petitioners.

Mr. G.S. Sandhu, Government Advocate for respondents Nos. 1 & 2.

They are heard on admission.

2. Case Diaries of both the cases registered at Crime No. 13/302 of 2006 and 13A/302A of 2006 at Police Station Buggawala, District Haridwar Perused.

3. The petitioners have filed this writ petition for the following reliefs:

"(i) a writ, order or direction in the nature of certiorari quashing the impugned FIR of case crime no. 13A/302A of 2006 U/s 147, 323, 324, 452 of IPC, at Police Station Buggawala, District Haridwar (contained as Annexure No. 3 to the writ petition).

(ii) a writ, order or direction in the nature of mandamus commanding the respondent No. 1 & 2 not to harass the petitioners in view of the impugned FIR till the collection of any credible evidence against the petitioners and till the filing of the charge sheet.

(iii) to pass a suitable writ, order or direction in favour of the petitioner and against the respondents which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

(iv) to award the cost of the present writ petition to the petitioners."

4. The petitioners are seeking quashing of the First Information Report lodged by respondent No. 3 Vinod against them and the case registered on the said report at Crime No. 13A/302A of 2006 at Police Station Buggawala, District Haridwar for the alleged commission of the offences punishable under Sections 147, 323, 324 and 452 of the I.P.C.

5. The incident of violence, which took place on 27.07.2006, led to the registration of two cases at Crime Nos. 13/302 of 2006 and 13A/302A of 2006 at Police Station Buggawala, District Haridwar for the alleged commission of the offences punishable under various sections of the Indian Penal Code.

6. The case at Crime No. 13/302 of 2006 was registered on the report of petitioner No. 2 Rakesh against as many as four persons namely Rajpal, Pawan, Chandra Shekhar and Mobin, whereas the other case at Crime No. 13A/302A of 2006 was registered on the report of one Vinod S/o Chaman Lal against as many as five persons namely Mahipal, Rakesh, Meghpal, Manga and Madan, the petitioners in this writ petition.

7. On due consideration of the submissions of the learned counsel for the parties; the contents of the two First Information Reports; and

the material available in the police case diaries of the two cases, we do not find any ground for quashing of the First Information Report lodged by respondent No. 3 Vinod against the petitioners in view of the dictum of the Apex Court in the case of **T. Vengama Naidu Vs. T. Dora Swamy Naidu & others** reported in **JT 2007(4) SC 240,** as the contents of the First Information Report and the material available in the police case dairy, prima facie, disclose the offences alleged against the petitioners.

8. The writ petition, therefore, is liable to be dismissed summarily.

9. Considering that some persons on the petitioners' side also sustained injuries in the said incident, we deem it proper to direct that in the event of the arrest of the petitioners by the police or their surrender before the court concerned, their bail petition shall be taken up for hearing in accordance with law without any undue delay.

10. With the above direction, the writ petition stands disposed of.

(J.C.S. Rawat, J.) **(Rajeev Gupta, C.J.)**

02.05.2007 02.05.2007

G